

or a corporation ceased to exist) or moved, or otherwise does not receive correctly addressed mail, service may be made by posting as provided in section 110(e).

[31 F.R. 16267, Dec. 20, 1966, as amended at 32 F.R. 13000, Sept. 13, 1967]

## PART 216—RULE-MAKING PROCEDURES: MOTOR VEHICLE SAFETY STANDARDS

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**AUTHORITY:** The provisions of this Part 216 issued under secs. 103 and 119, 80 Stat. 728; U.S.C. 1407; Delegation of Authority, Oct. 14, 1967, 32 F.R. 14277.

**SOURCE:** The provisions of this Part 216 appear at 32 F.R. 15818, Nov. 17, 1967, unless otherwise noted.

### Subpart A—General

#### § 216.1 Applicability.

The part prescribes rule-making procedures that apply to the issue, amendment, and revocation of rules under sections 103 and 119 of the National Traffic and Motor Vehicle Safety Act of 1966.

#### § 216.3 Definitions.

“Act” means the National Traffic and Motor Vehicle Safety Act of 1966, P.L. 89-563, 15 U.S.C. 1391, et seq.

“Administrator” means the Administrator of the Federal Highway Administration or a person to whom he has delegated final authority in the matter concerned.

“Rule” includes any order, regulation, or Federal motor vehicle safety standard issued under the Act.

#### § 216.5 Regulatory docket.

(a) Information and data deemed relevant by the Administrator of the Federal Highway Administration relating to rule-making actions, including notices of proposed rule making; comments received in response to notices; petitions for rule making and reconsideration; denials of petitions for rule making and reconsideration; records of additional rule-making proceedings under § 216.25; and final rules are maintained in the Central File Room—Room 401, Federal Highway Administration, Donohoe Building, Sixth and D Streets SW., Washington, D.C. 20591.

(b) Any person may examine any docketed material at the Central File Room at any time during regular business hours after the docket is established, except material ordered withheld from the public under sections 112 and 113 of the Act (15 U.S.C. 1401, 1402) and section 552(b) of Title 5 of the United States Code, and may obtain a copy of it upon payment of a fee.

#### § 216.7 Records.

Records of the Federal Highway Administration relating to rule-making proceedings are available for inspection as provided in section 552(b) of Title 5 of the United States Code and Part 7 of the Regulations of the Secretary of Transportation (49 CFR Part 7; 32 F.R. 9284, et seq.).

### Subpart B—Procedures for Adoption of Rules Under Sections 103 and 119 of the Act

#### § 216.11 General.

Unless the Administrator, for good cause, finds that notice is impracticable, unnecessary, or contrary to the public interest, and incorporates that finding and a brief statement of the reasons for it in the rule, a notice of proposed rule making is issued and interested persons are invited to participate in the rule-making proceedings involving rules under sections 103 and 119 of the Act.

#### § 216.13 Initiation of rule making.

The Administrator initiates rule making on his own motion. However, in so doing, he may, in his discretion, consider the recommendations of other agencies

of the United States or of other interested persons.

**§ 216.15 Contents of notices of proposed rule making.**

(a) Each notice of proposed rule making is published in the **FEDERAL REGISTER**, unless all persons subject to it are named and are personally served with a copy of it.

(b) Each notice, whether published in the **FEDERAL REGISTER** or personally served, includes—

(1) A statement of the time, place, and nature of the proposed rule-making proceeding;

(2) A reference to the authority under which it is issued;

(3) A description of the subjects and issues involved or the substance and terms of the proposed rule;

(4) A statement of the time within which written comments must be submitted; and

(5) A statement of how and to what extent interested persons may participate in the proceeding.

**§ 216.17 Participation by interested persons.**

(a) Any interested person may participate in rule-making proceeding by submitting comments in writing containing information, views or arguments.

(b) In his discretion, the Administrator may invite any interested person to participate in the rule-making procedures described in § 216.25.

**§ 216.19 Petitions for extension of time to comment.**

A petition for extension of the time to submit comments must be received in duplicate not later than three (3) days before expiration of the time stated in the notice. The filing of the petition does not automatically extend the time for petitioner's comments. Such a petition is granted only if the petitioner shows good cause for the extension, and if the extension is consistent with the public interest. If an extension is granted, it is granted to all persons, and it is published in the **FEDERAL REGISTER**.

**§ 216.21 Contents of written comments.**

All written comments must be in English and submitted in twenty (20) legible copies, unless fewer copies are specified in the notice. Any interested person must submit as part of his written comments all the material that he considers relevant to any statement of fact made by him. Incorporation of material by ref-

erence is to be avoided. However, if such incorporation is necessary, the incorporated material shall be identified with respect to document and page.

**§ 216.23 Consideration of comments received.**

All timely comments are considered before final action is taken on a rule-making proposal. Late filed comments may be considered as far as practicable.

**§ 216.25 Additional rule-making proceedings.**

The Administrator may initiate any further rule-making proceedings that he finds necessary or desirable. For example, interested persons may be invited to make oral arguments, to participate in conferences between the Administrator or his representative and interested persons at which minutes of the conference are kept, to appear at informal hearings presided over by officials designated by the Administrator at which a transcript or minutes are kept, or participate in any other proceeding to assure informed administrative action and to protect the public interest.

**§ 216.27 Hearings.**

(a) Sections 556 and 557 of Title 5, United States Code, do not apply to hearings held under this part. Unless otherwise specified, hearings held under this part are informal, nonadversary, fact finding proceedings, at which there are no formal pleadings or adverse parties. Any rule issued in a case in which an informal hearing is held is not necessarily based exclusively on the record of the hearing.

(b) The Administrator designates a representative to conduct any hearing held under this part. The Chief Counsel of the Federal Highway Administration designates a member of his staff to serve as legal officer at the hearing.

**§ 216.29 Adoption of final rules.**

Final rules are prepared by representatives of the office concerned and the Office of the Chief Counsel. The rule is then submitted to the Administrator for his consideration. If the Administrator adopts the rule, it is published in the **FEDERAL REGISTER**, unless all persons subject to it are named and are personally served with a copy of it.

**§ 216.31 Petitions for rule making.**

(a) Any interested person may petition the Administrator to establish, amend, or repeal a rule.

(b) Each petition filed under this section must—

(1) Be submitted in duplicate to the Docket Clerk, Central File Room—Room 401, Federal Highway Administration, Donohoe Building, Sixth and D Streets SW., Washington, D.C. 20591;

(2) Set forth the text or substance of the rule or amendment proposed, or specify the rule that the petitioner seeks to have repealed, as the case may be;

(3) Explain the interest of the petitioner in the action requested;

(4) Contain any information and arguments available to the petitioner to support the action sought.

#### § 216.33 Processing of petition.

(a) *General.* Each petition received under § 216.31 is referred to the Director of the Bureau. Unless the Administrator otherwise specifies, no public hearing, argument, or other proceeding is held directly on a petition before its disposition under this section.

(b) *Grants.* If the Administrator determines that the petition contains adequate justification, he initiates rule-making action under this Subpart B.

(c) *Denials.* If the Administrator determines that the petition does not justify rule making, he denies the petition.

(d) *Notification.* Whenever the Administrator determines that a petition should be granted or denied, the Office of the Chief Counsel prepares a notice of that grant or denial for issuance to the petitioner, and the Administrator issues it to the petitioner.

#### § 216.35 Petitions for reconsideration.

(a) Any interested person may petition the Administrator for reconsideration of any rule issued under this part. The petition must be submitted in

twenty (20) legible copies to the Docket Clerk, Central File Room—Room 401, Federal Highway Administration, Donohoe Building, Sixth and D Streets SW., Washington, D.C. 20591, and received not later than thirty (30) days after publication of the rule in the *FEDERAL REGISTER*. Petitions filed after that time will be considered as petitions filed under § 216.31. The petition must contain a brief statement of the complaint and an explanation as to why compliance with the rule is not practicable, is unreasonable, or is not in the public interest.

(b) If the petitioner requests the consideration of additional facts, he must state the reason they were not presented to the Administrator within the prescribed time.

(c) The Administrator does not consider repetitious petitions.

(d) Unless the Administrator otherwise provides, the filing of a petition under this section does not stay the effectiveness of the rule.

#### § 216.37 Proceedings on petitions for reconsideration.

The Administrator may grant or deny, in whole or in part, any petition for reconsideration without further proceedings. In the event he determines to reconsider any rule, he may issue a final decision on reconsideration without further proceedings, or he may provide such opportunity to submit comment or information and data as he deems appropriate. Whenever the Administrator determines that a petition should be granted or denied, he prepares a notice of the grant or denial of a petition for reconsideration, for issuance to the petitioner, and issues it to the petitioner. The Administrator may consolidate petitions relating to the same rule.

## SUBCHAPTER C—MOTOR VEHICLE SAFETY REGULATIONS

### PART 255—INITIAL FEDERAL MOTOR VEHICLE SAFETY STANDARDS

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#### Subpart B—Standards

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**AUTHORITY:** The provisions of this Part 255 issued under secs. 103, 119, 80 Stat. 719, 728; 15 U.S.C. 1392, 1407.

**SOURCE:** The provisions of this Part 255 appear at 32 F.R. 2408, Feb. 3, 1967, unless otherwise noted.

#### Subpart A—General

##### § 255.1 Scope.

This part contains the initial Federal Motor Vehicle Safety Standards for motor vehicles and motor vehicle equipment